



**MINUTES
SCOTTSDALE PLANNING COMMISSION
KIVA – CITY HALL
3939 N. DRINKWATER BOULEVARD
DECEMBER 1, 2004**

PRESENT: David Gulino, Chairman
Steve Steinberg, Vice Chairman
David Barnett, Commissioner
James Heitel, Commissioner
Eric Hess, Commissioner
Jeffrey Schwartz, Commissioner
Steven Steinke, Commissioner

STAFF: Donna Bronski
Suzanne Colver
Tim Curtis
Kurt Jones
Phil Kercher
Deborah Robberson
Al Ward

CALL TO ORDER

The regular meeting of the Scottsdale Planning Commission was called to order by Chairman Gulino at 5:00 p.m.

ROLL CALL

A formal roll call confirmed members present as stated above.

MINUTES APPROVAL

November 10, 2004

APPROVED

COMMISSIONER HEITEL MADE A MOTION TO APPROVE THE NOVEMBER 10, 2004 MINUTES AS PRESENTED. SECOND BY COMMISSIONER BARNETT.

THE MOTION PASSED BY A VOTE OF SEVEN (7) TO ZERO (0).

CONTINUANCES

33-ZN-1997#3 (Raintree Corporate Center) request by owner for site plan/stipulation amendments to case 33-ZN-1997#2 on 11+/- acres located at the northeast corner of Raintree Drive and the Loop 101 frontage road with Central Business District (C-2) zoning.

9-ZN-2004 (Pima Corridor Rezone) request by owner to rezone from Single Family Residential District (R1-35) to Industrial Park (I-1) on a 2 +/- acre parcel located north of northeast corner of Pima Freeway and Raintree Drive.

CHAIRMAN GULINO stated cases 33-ZN-1997#3 and 9-ZN-2004 have been continued to the December 15, 2004, meeting.

He announced Vice Chairman Steinberg has been appointed to serve on the ASU Advisory Working Group.

COMMISSIONER BARNETT MOVED TO CONTINUE CASES 33-ZN-1997#3 AND 9-ZN-2004 TO THE DECEMBER 15, 2004, PLANNING COMMISSION MEETING. SECOND BY COMMISSIONER SCHWARTZ.

THE MOTION PASSED BY A VOTE OF SEVEN (7) TO ZERO (0).

INITIATION

5-TA-2004 (Overall Text Amendment) request by City of Scottsdale, applicant, to initiate a text amendment to amend all Sections of the City of Scottsdale Zoning Ordinance (455).

MR. GRANT presented this request as per the project coordination packet. Staff recommends initiation.

COMMISSIONER HEITEL stated he felt this is well overdue and a great service to the city to start this process. He inquired if input from the community will be obtained. Mr. Grant replied there would be a citizen involvement process with each of the text amendments.

COMMISSIONER BARNETT stated that this is a wide open carte blanche type text amendment that does not have any real time constraints. He inquired if it

would end on its own or does it give you carte blanche over the next 35 years. Mr. Grant replied it would be our desire that it is an ongoing process. He reviewed how they anticipate this process to work. Commissioner Barnett inquired if the more substantive type things would come through the regular process and this is carte blanche for administrative things. Mr. Grant replied that is an excellent clarification. This is to clear up those things that we have seen a problem. If we see major issues such as an update to ESL or some other ordinance that is significant, we would bring that through a separate text amendment.

COMMISSIONER STEINKE MOVED TO INITIATE 5-TA-2004 A TEXT AMENDMENT TO AMEND ALL SECTIONS OF THE CITY OF SCOTTSDALE ZONING ORDINANCE (455). SECOND BY COMMISSIONER SCHWARTZ.

THE MOTION PASSED BY A VOTE OF SEVEN (7) TO ZERO (0).

CHAIRMAN GULINO stated he has a card from Leon Spiro on cases 33-ZN-1997#3 and 9-ZN-2004. These cases have been continued to December 15, 2004.

(CHAIRMAN GULINO OPENED PUBLIC TESTIMONY.)

LEON SPIRO, 7814 E. Overlin Way, stated he knows these items have been continued to December 15, but did not believe he would be able to voice his concerns on that date. He requested a staff presentation.

MR. JONES explained that these cases are continued and staff was not prepared to give a presentation but can give an overall on both cases. Chairman Gulino stated the Commission does not feel they need a presentation but requested Mr. Spiro states his concerns.

MR. SPIRO stated the commissioners' are professionals in the development community. He inquired how many of you have ever had a vested interest or members of your family and friends have had a vested interest in the abandonment of a GLO patent easement.

CHAIRMAN GULINO reported these cases do not discuss the abandonment. The abandonment will come through as a separate case. He requested Mr. Spiro keep his comments relative to the cases at hand.

MR. SPIRO inquired what happened in 1997 and how this became an 11.5 acre parcel. He also inquired what type of easement is this. Ms. Bronski stated it is not really an easement it is a reserved access right that was reserved by the Federal Government when they were granting the GLO property to the

individuals that were under the Small Tract Act. She reiterated that it is not an easement but a reserved property right.

(CHAIRMAN GULINO CLOSED PUBLIC TESTIMONY.)

EXPEDITED AGENDA

17-AB-2004 (129TH Street Abandonment) request owners to abandon the right of way for 129th Street between Cochise Road and Gold Dust Avenue and the 33 feet General Land Office patent easement on the eastern side of 129th Street.

(PULLED TO REGULAR AGENDA)

15-UP-2004 (Danny's Family Carwash) request by owner for conditional use permits for a car wash and a service station on a 2.6 +/- acre parcel located at 14651 N. Northsight Blvd with Central Business District (C-2) zoning.

(PULLED TO REGULAR AGENDA)

31-UP-2004 (Velocity Sports) request by owner for a conditional use permit for a health studio in a portion of the existing building located at 9171 E. Bell Road with Industrial Park Planned Community Development District (I-1 PCD) zoning.

33-UP-2004 (Paradise Valley Arsenic Removal Facility) request by owner for a conditional use permit for public utility buildings, structures or appurtenances thereto for public service uses on 8 +/- acres located at the 6000 block of N Miller (Cattletrack) Road with Single Family Residential District (R1-43) and Special Campus District, Historic Property (S-C HP) zoning.

(COMMISSIONER SCHWARTZ DECLARED A CONFLICT AND DID NOT PARTICIPATE IN THE VOTE.)

COMMISSIONER BARNETT MOVED TO FORWARD CASE 31-UP-2004 TO THE CITY COUNCIL WITH A RECOMMENDATION FOR APPROVAL SUBJECT THAT IT MEETS THE USE PERMIT CRITERIA. SECOND BY COMMISSIONER SCHWARTZ.

THE MOTION PASSED BY A VOTE OF SEVEN (7) TO ZERO (0).

COMMISSIONER BARNETT MOVED TO FORWARD CASE 33-UP-2004 TO THE CITY COUNCIL WITH A RECOMMENDATION FOR APPROVAL SUBJECT THAT IT MEETS THE USE PERMIT CRITERIA. SECOND BY COMMISSIONER HESS.

**THE MOTION PASSED BY A VOTE OF SIX (6) TO ZERO (0) WITH
COMMISSIONER SCHWARTZ ABSTAINING.**

REGULAR AGENDA

17-AB-2004 (129TH Street Abandonment) request owners to abandon the right of way for 129th Street between Cochise Road and Gold Dust Avenue and the 33 feet General Land Office patent easement on the eastern side of 129th Street.

MS. COLVER presented this case as per the project coordination packet. Staff recommends approval, subject to the attached stipulations.

(CHAIRMAN GULINO OPENED PUBLIC TESTIMONY.)

LEON SPIRO, 7814 E. Overlin Way, stated this is another GLO abandonment that he opposes. He further stated that he sees these GLO easements as a recreational amenity and a scenic corridor. He inquired if you would purchase or build a home that encroaches a federal land patent roadway easement reservation. He reported one cannot dispute the City Council has the right to abandon the City's interest in the GLO easements but there is a private right issue that the city is neglecting to address by permitting construction, blocking, and fencing of these GLO patent roadway easements.

He requested again for Ms. Bronski to state exactly what type of easement this is. Ms. Bronski reported it is not an easement it is an access right reserved by the Federal Government when they were granting the GLO property to the individuals that were under the Small Tract Act.

Mr. Spiro stated he felt they should get the legal opinion of the Attorney General of the State of Arizona regarding this city's method of abandoning these roadways easements and then permitting construction, blockage, and fencing. He further stated that he felt the city should inform the applicants' that the city's action is disputed and they should seek expert legal advice. He reviewed the possible problems with this request.

(CHAIRMAN GULINO CLOSED PUBLIC TESTIMONY.)

**COMMISSIONER STEINKE MOVED TO FORWARD CASE 17-AB-2004 TO
THE CITY COUNCIL WITH A RECOMMENDATION FOR APPROVAL.
SECOND BY COMMISSIONER SCHWARTZ.**

THE MOTION PASSED BY A VOTE OF SEVEN (7) TO ZERO (0).

15-UP-2004 (Danny's Family Carwash) request by owner for conditional use permits for a car wash and a service station on a 2.6 +/- acre parcel located at 14651 N. Northsight Blvd with Central Business District (C-2) zoning.

(CHAIRMAN GULINO DECLARED A CONFLICT AND DID NOT PARTICIPATE IN THE DISCUSSION OR VOTE.)

MR. JONES presented this case as per the project coordination packet. Staff recommends approval, subject to the attached stipulations.

COMMISSIONER BARNETT asked a series of questions regarding the traffic calculations. Mr. Kercher provided information on how the traffic calculations were determined and what comparisons were used.

Commissioner Barnett inquired if a car wash is a regional use when there are several car washes already in the area. Mr. Jones replied this area on the General Plan is labeled as a regional use overlay. The sites in and around this are mixtures of commercial office, commercial, and industrial. The make up of all those zoning districts creates commercial uses within the area. He stated that he was not sure the specific use is a regional use.

Commissioner Barnett stated this is a nice project. He further stated that each of these projects keeps coming through here using land that could be utilized for something more economically feasible than a car wash. It brings in low-quality jobs. It brings in low-quality tax base. He remarked when staff is doing the traffic comparable analysis using two fast food restaurants that does not seem to be one of the uses that would make a lot of sense there. When it could also be a three-story office building that would bring in white collar high income jobs that are a regional use or some other types of facilities.

He stated we rely on neighbors to make comments and questions on the different types of uses in the area. On this specific use, we require 750 foot notice to get citizen input. He further stated that most of the six letters went out to people out of state and it would not seem those people would respond in the best interest of the City of Scottsdale. He reported he felt this is a nice project but felt we are wasting a lot of valuable land for the wrong projects in the area. He further reported there are a lot of other nice office facilities going in this area. He concluded that he did not think the land in the AirPark is being used efficiently.

COMMISSIONER SCHWARTZ MOVED TO FORWARD CASE 15-UP-2004 TO THE CITY COUNCIL WITH A RECOMMENDATION FOR APPROVAL SUBJECT THAT IT MEETS THE USE PERMIT CRITERIA. SECOND BY COMMISSIONER HEITEL.

THE MOTION PASSED BY A VOTE OF SIX (6) TO ZERO (0) WITH CHAIRMAN GULINO ABSTAINING.

12-ZN-2004 (Miller & McDonald) request by owner to rezone from Single Family Residential District (R1-43) to Service Residential (S-R) on a 4 +/- acre parcel located at 5975 N. Miller Road (Southeast corner of McDonald Drive & Miller Road).

MR. WARD presented this case as per the project coordination packet. Staff recommends approval, subject to the attached stipulations.

VICE CHAIRMAN STEINBERG asked a series of questions regarding the Capital Improvement projects the City is undertaking. Mr. Kercher provided an overview of the Capital Improvement projects.

COMMISSIONER HEITEL inquired if a left turn bay on McDonald would alleviate some of the westbound traffic. Mr. Kercher replied it would alleviate some of the traffic that is being made onto Miller Road there would be opportunity for those vehicles to make a left turn directly into the site. The question from staff perspective is it really needed. The traffic projections and capacity analysis don't show that there is a capacity problem at Miller and McDonald so we believe the turns are being safely made at that intersection. It would be an additional cost to project. One of the issues regarding adding the left turn lane is the bridge and it is not determined if it would be widened and that could create a barrier to get enough width to add a left turn lane at that location.

COMMISSIONER BARNETT inquired when coming over the bridge going west if you have two left lanes that close together if that would cause backing up traffic onto the bridge. Mr. Kercher replied he did not see any issues with cars backing up.

JOHN BERRY, Berry & Damore, 6750 E. Camelback Road, stated that this is an in fill parcel with lots of development already around it. He emphasized it is at a signalized intersection at McDonald and Miller with 20,000 cars a day on McDonald. He reviewed what exists around this site. He discussed why they had to go through with the General Plan amendment case. He reported on the work that has been done with the neighbors to improve this project. He reviewed the old site plan. He noted the two major issues were character and traffic. He reported on how those issues have been addressed. He reviewed the revised site plan and provided a comparison of the old and new site plans. He walked through the traffic improvements. He requested approval of the traffic improvements and requested the Planning Commission stipulate the changes. He noted the General Plan and adopted public policy is clear that when there is a conflict we should favor the needs of the neighborhoods.

He requested changes to the stipulations as follows:

Under Planning/Development No. 5c is deleted and a new 5c is added that deals with lighting should be inserted to read: **No pole-mounted lighting shall be permitted.**

Under Planning/Development No. 6 add to the stipulation, last sentence: **And written notice to the property owners within a minimum of 300 feet from the property is provided.**

Under Circulation: **Add language that directs staff to amend the stipulations to allow the changes that are identified in the applicant's proposal on their site plan.**

Delete Stipulation No. 4, Easement Requirements.

Include a stipulation that the applicant's be required to improve Palo Verde over the area where there is only 25 foot of right-of-way to accommodate those two lanes of traffic within the 25 feet.

He respectfully requested if the Commission deems it appropriate to approve this case that they include the modifications to the stipulations as discussed. He reported over the last 60 days we have worked hard to listen to the neighbors and hope we have done a job worthy of their support.

VICE CHAIRMAN STEINBERG stated on Attachment #6, Page 1, No. 2 reads:

FINAL BUILDING LOCATION. The specific location of each building shall be subject to Development Review Board approval.

He inquired if that allows us to open the door for changes, which would be in contradiction to what has been accomplished with the community. Mr. Berry replied in the affirmative and that should be changed.

Vice Chairman Steinberg inquired if there would be covered parking anywhere on the site. Mr. Berry replied in the negative.

Vice Chairman Steinberg stated on Page 4, under Other Requirements, No. 6 Proximity to Water Treatment Facility, he inquired if there is anything that goes on at the Water Treatment Facility that would be onerous to the office occupants on this proposed project. Mr. Berry replied in the negative.

Vice Chairman Steinberg inquired if there would be asphalt paving in the parking lot or are they considering decomposed granite. Mr. Berry replied they are considering the decomposed granite.

Vice Chairman stated he likes the site plan and it is sensitively done.

COMMISSIONER BARNETT stated he liked the suggested changes. He inquired to the east side of the facility next to the canal, for cars pulling into the parking spots with their headlights is there enough landscaping to keep headlights from going to the neighbors on the other side of the canal or a barrier. Mr. Berry replied there would be some type of a barrier for lights when cars are there.

Commissioner Barnett requested information on the builder contract that is being put in place before this goes to City Council. Mr. Berry provided an overview of the proposed builder contract. He stated the purpose is to ensure there is no bait and switch so there are ironclad stipulations. They intend to have someone under contract before they go to City Council for approval of denial of this case.

CHAIRMAN GULINO inquired if staff was in favor of the proposed stipulation changes. Mr. Jones replied staff does not have a problem with adding the stipulation regarding no pole lighting. With regard to Stipulation No. 6 and notification, typically we go out to 750 feet. With regard to the traffic improvements, the Commission can include those as part of their recommendation and staff can further discuss this to determine if there are issues. The improvements on Miller and McDonald staff does not feel they are necessary and if the Planning Commission feels that they are then you can forward that as part of your recommendation. With regard to No. 4 there would not be a problem deleting that stipulation.

Chairman Gulino inquired if staff could draft a stipulation for the work on Palo Verde. Mr. Jones replied staff could work on that during public testimony.

Chairman Gulino stated regarding the in lieu payments, given the pending capital work on McDonald, it would make sense that this property do an in lieu payment rather than a conflicting design project. On Miller Road, with the way he reads the stipulation, it sounds like an opportunity to potentially do an in lieu payment instead of doing physical improvements. Mr. Kercher stated it was their intent for them to provide an in lieu payment for the Miller Road improvements. Chairman Gulino stated it is important that in this process there is a commitment in this process that the improvements as presented are put into place and there is a timing stipulation.

(CHAIRMAN GULINO OPENED PUBLIC TESTIMONY.)

NORMAN PAULSON, 5814 N. Miller Road, spoke in support of this request. He stated he moved into this property 28 years ago. It is located at the intersection of Palo Verde and Miller on the northwest corner. He further stated that he has a

strong interest in what is going to be done. He commented on the strong efforts of the applicants' in working with the neighborhood. He presented information on the drainage issues in the neighborhood and how they have been solved. He discussed the issues related with black topping Palo Verde and he would be willing to give property to allow the 50-foot radius on that corner. He discussed the traffic issues in that neighborhood.

JANIE ELLIS, 105 Cattletrack, spoke in support of this request. She stated Arizona Water Company has been a good neighbor and has been responsive to the issues. She further stated she is in favor of the proposal.

(CHAIRMAN GULINO OPENED PUBLIC TESTIMONY.)

COMMISSIONER STEINKE thanked the applicant for the presentation and for taking care and time working with the neighbors in this process. The process is what got us to this point. He stated it is important when the city is considering the project on McDonald to give very careful thought to the entire package. The impact on both streets because the last thing we want to do is create a situation where traffic flow is all involved in one particular area and we do not have the flow opportunities in two spots. He added the character changes he has seen are excellent and will be a nice transition in the neighborhood and it is nice to hear the folks that live there are supportive of it as well.

CHAIRMAN GULINO inquired what Mr. Berry felt was a fair distance for the notification he brought up. Mr. Berry replied 750 feet is appropriate and is the same group that received the notice on the rezoning.

Chairman Gulino stated that he would recommend that given the nature of the area that any work on Palo Verde be left as an agreement between the applicant and the neighborhood. Mr. Berry presented information why this issue is so important noting there is a concern about safety. Chairman Gulino asked staff if that type of stipulation would be enforceable. And what do we do if issues arise such as right-of-way that we do not have any control over does it create problems that maybe the applicant deals with that regardless of what he does with the property. Mr. Jones stated with regard to when the improvements on Miller and McDonald get done staff can add the prior to certificate of occupancy language. With regard to Palo Verde, we can add it to the top of page 2 under circulation to have them do the half-street improvements. Ms. Robberson stated she did not believe we can enforce that against subsequent owners and would be better left to a private agreement or private recordation of some sort. Mr. Berry stated it is his understanding if they were to enter a Development Agreement with the City it would be enforceable. His suggestion would be there is a requirement in the stipulations that there is a development agreement that requires them to do that to the satisfaction of staff.

COMMISSIONER HEITEL stated this has come a long way since we first saw it. He further stated he thought the recommended improvements with regard to the circulation are very important to the neighborhood and keeping the integrity of Miller Road.

COMMISSIONER HEITEL MOVED TO FORWARD CASE 12-ZN-2004 TO THE CITY COUNCIL WITH A RECOMMENDATION FOR APPROVAL WITH THE FOLLOWING ADDITIONS AND AMENDMENTS:

STIPULATION NO. 5C BE CHANGED TO INCLUDE NO POLE MOUNTED LIGHTING.

CHARACTER STIPULATION NO. 6 BE INCLUDED TO REQUIRE WRITTEN NOTICE TO THE PROPERTY OWNERS' WITHIN 750 FEET.

THAT SPECIFICALLY THE IMPROVEMENTS ON THE APPLICANT'S PROPOSED SITE PLAN THE MCDONALD DRIVE LEFT TURN LANE AND THE DEPICTION OF THE ENTRANCE INTO THE PROJECT ON MILLER ROAD BE PART OF THE REQUIREMENTS THAT THE EASEMENT REQUIREMENT BE ELIMINATED IN NO. 4.

THAT WHATEVER MECHANISMS THE PROPERTY OWNER CAN DETERMINE WITH STAFF IN REGARDS TO THE ADDITIONAL IMPROVEMENTS ON THE HALF STREET OF PALO VERDE TO IMPROVE THE 25-FOOT HALF STREET TO ACCOMMODATE TWO LANES BE INCLUDED IN THERE.

MR. BERRY requested on the last part say, including but not limited to a development agreement that is the best mechanism to ensure that subsequent owner is aware and bound by this. We can also put some of the things about lighting and no covered parking and some of those things that keep the faith with the neighbors as well. He stated the only other one that was raised by Vice Chairman Steinberg on Additional Information No. 2 on final building location and would request that be deleted.

COMMISSIONER HEITEL AMENDED THE MOTION TO CONCUR WITH THE DEVELOPMENT AGREEMENT LANGUAGE AND WOULD CONCUR THE NO PARKING STRUCTURES AND COVERED PARKING AND THE CLARIFICATION ON THE DEVELOPMENT REVIEW BOARD. SECOND BY COMMISSIONER BARNETT.

THE MOTION PASSED BY A VOTE OF SIX (6) TO ZERO (0) NOTING THAT COMMISSIONER SCHWARTZ WAS NOT PRESENT FOR THE VOTE.

ADJOURNMENT

With no further business to discuss, the regular meeting of the Scottsdale Planning Commission was adjourned at approximately 7:00 p.m.

Respectfully Submitted,

"For the Record " Court Reporters